



General Assembly

Raised Bill No. 151

February Session, 2014

LCO No. 990



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING CONTRACT COMPLIANCE REQUIREMENTS
FOR THE METROPOLITAN DISTRICT OF HARTFORD.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4a-60 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2014*):

3 (a) Every contract to which the state or any political subdivision of
4 the state other than a municipality is a party shall contain the
5 following provisions:

6 (1) The contractor agrees and warrants that in the performance of
7 the contract such contractor will not discriminate or permit
8 discrimination against any person or group of persons on the grounds
9 of race, color, religious creed, age, marital status, national origin,
10 ancestry, sex, gender identity or expression, intellectual disability,
11 mental disability or physical disability, including, but not limited to,
12 blindness, unless it is shown by such contractor that such disability
13 prevents performance of the work involved, in any manner prohibited
14 by the laws of the United States or of the state of Connecticut; and the
15 contractor further agrees to take affirmative action to insure that

16 applicants with job-related qualifications are employed and that
17 employees are treated when employed without regard to their race,
18 color, religious creed, age, marital status, national origin, ancestry, sex,
19 gender identity or expression, intellectual disability, mental disability
20 or physical disability, including, but not limited to, blindness, unless it
21 is shown by such contractor that such disability prevents performance
22 of the work involved;

23 (2) The contractor agrees, in all solicitations or advertisements for
24 employees placed by or on behalf of the contractor, to state that it is an
25 "affirmative action-equal opportunity employer" in accordance with
26 regulations adopted by the commission;

27 (3) The contractor agrees to provide each labor union or
28 representative of workers with which such contractor has a collective
29 bargaining agreement or other contract or understanding and each
30 vendor with which such contractor has a contract or understanding, a
31 notice to be provided by the commission advising the labor union or
32 workers' representative of the contractor's commitments under this
33 section, and to post copies of the notice in conspicuous places available
34 to employees and applicants for employment;

35 (4) The contractor agrees to comply with each provision of this
36 section and sections 46a-68e and 46a-68f and with each regulation or
37 relevant order issued by said commission pursuant to sections 46a-56,
38 46a-68e and 46a-68f; and

39 (5) The contractor agrees to provide the Commission on Human
40 Rights and Opportunities with such information requested by the
41 commission, and permit access to pertinent books, records and
42 accounts, concerning the employment practices and procedures of the
43 contractor as relate to the provisions of this section and section 46a-56.

44 (b) If the contract is a public works contract, the contractor agrees
45 and warrants that he will make good faith efforts to employ minority
46 business enterprises as subcontractors and suppliers of materials on

47 such public works project.

48 (c) (1) Any contractor who has one or more contracts with the state
49 or a political subdivision of the state that is valued at less than fifty
50 thousand dollars for each year of the contract shall provide the state or
51 such political subdivision of the state with a written or electronic
52 representation that complies with the nondiscrimination agreement
53 and warranty under subdivision (1) of subsection (a) of this section,
54 provided if there is any change in such representation, the contractor
55 shall provide the updated representation to the state or such political
56 subdivision not later than thirty days after such change.

57 (2) Any contractor who has one or more contracts with the state or a
58 political subdivision of the state that is valued at fifty thousand dollars
59 or more for any year of the contract shall provide the state or such
60 political subdivision of the state with any one of the following:

61 (A) Documentation in the form of a company or corporate policy
62 adopted by resolution of the board of directors, shareholders,
63 managers, members or other governing body of such contractor that
64 complies with the nondiscrimination agreement and warranty under
65 subdivision (1) of subsection (a) of this section;

66 (B) Documentation in the form of a company or corporate policy
67 adopted by a prior resolution of the board of directors, shareholders,
68 managers, members or other governing body of such contractor if (i)
69 the prior resolution is certified by a duly authorized corporate officer
70 of such contractor to be in effect on the date the documentation is
71 submitted, and (ii) the head of the agency of the state or such political
72 subdivision, or a designee, certifies that the prior resolution complies
73 with the nondiscrimination agreement and warranty under
74 subdivision (1) of subsection (a) of this section; or

75 (C) Documentation in the form of an affidavit signed under penalty
76 of false statement by a chief executive officer, president, chairperson or
77 other corporate officer duly authorized to adopt company or corporate

78 policy that certifies that the company or corporate policy of the
79 contractor complies with the nondiscrimination agreement and
80 warranty under subdivision (1) of subsection (a) of this section and is
81 in effect on the date the affidavit is signed.

82 (3) Neither the state nor any political subdivision shall award a
83 contract to a contractor who has not provided the representation or
84 documentation required under subdivisions (1) and (2) of this
85 subsection, as applicable. After the initial submission of such
86 representation or documentation, the contractor shall not be required
87 to resubmit such representation or documentation unless there is a
88 change in the information contained in such representation or
89 documentation. If there is any change in the information contained in
90 the most recently filed representation or updated documentation, the
91 contractor shall submit an updated representation or documentation,
92 as applicable, either (A) not later than thirty days after the effective
93 date of such change, or (B) upon the execution of a new contract with
94 the state or a political subdivision of the state, whichever is earlier.
95 Such contractor shall also certify, in accordance with subparagraph (B)
96 or (C) of subdivision (2) of this subsection, to the state or political
97 subdivision, not later than fourteen days after the twelve-month
98 anniversary of the most recently filed representation, documentation
99 or updated representation or documentation, that the representation
100 on file with the state or political subdivision is current and accurate.

101 (d) For the purposes of this section, "contract" includes any
102 extension or modification of the contract, "contractor" includes any
103 successors or assigns of the contractor, "marital status" means being
104 single, married as recognized by the state of Connecticut, widowed,
105 separated or divorced, and "mental disability" means one or more
106 mental disorders, as defined in the most recent edition of the American
107 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
108 Disorders", or a record of or regarding a person as having one or more
109 such disorders. For the purposes of this section, "contract" does not
110 include a contract where each contractor is (1) a political subdivision of

111 the state, including, but not limited to, a municipality, (2) a quasi-
112 public agency, as defined in section 1-120, (3) any other state, as
113 defined in section 1-267, (4) the federal government, (5) a foreign
114 government, or (6) an agency of a subdivision, agency, state or
115 government described in subparagraph (1), (2), (3), (4) or (5) of this
116 subsection.

117 (e) For the purposes of this section, "minority business enterprise"
118 means any small contractor or supplier of materials fifty-one per cent
119 or more of the capital stock, if any, or assets of which is owned by a
120 person or persons: (1) Who are active in the daily affairs of the
121 enterprise, (2) who have the power to direct the management and
122 policies of the enterprise, and (3) who are members of a minority, as
123 such term is defined in subsection (a) of section 32-9n; and "good faith"
124 means that degree of diligence which a reasonable person would
125 exercise in the performance of legal duties and obligations. "Good faith
126 efforts" shall include, but not be limited to, those reasonable initial
127 efforts necessary to comply with statutory or regulatory requirements
128 and additional or substituted efforts when it is determined that such
129 initial efforts will not be sufficient to comply with such requirements.

130 (f) Determination of the contractor's good faith efforts shall include
131 but shall not be limited to the following factors: The contractor's
132 employment and subcontracting policies, patterns and practices;
133 affirmative advertising, recruitment and training; technical assistance
134 activities and such other reasonable activities or efforts as the
135 commission may prescribe that are designed to ensure the
136 participation of minority business enterprises in public works projects.

137 (g) The contractor shall develop and maintain adequate
138 documentation, in a manner prescribed by the commission, of its good
139 faith efforts.

140 (h) The contractor shall include the provisions of subsections (a) and
141 (b) of this section in every subcontract or purchase order entered into
142 in order to fulfill any obligation of a contract with the state and such

143 provisions shall be binding on a subcontractor, vendor or
144 manufacturer unless exempted by regulations or orders of the
145 commission. The contractor shall take such action with respect to any
146 such subcontract or purchase order as the commission may direct as a
147 means of enforcing such provisions including sanctions for
148 noncompliance in accordance with section 46a-56; provided, if such
149 contractor becomes involved in, or is threatened with, litigation with a
150 subcontractor or vendor as a result of such direction by the
151 commission, the contractor may request the state of Connecticut to
152 enter into any such litigation or negotiation prior thereto to protect the
153 interests of the state and the state may so enter.

154 (i) The Metropolitan District of Hartford County shall be deemed to
155 be a political subdivision of the state for purposes of this section.

156 Sec. 2. Section 4a-60a of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective July 1, 2014*):

158 (a) Every contract to which the state or any political subdivision of
159 the state other than a municipality is a party shall contain the
160 following provisions:

161 (1) The contractor agrees and warrants that in the performance of
162 the contract such contractor will not discriminate or permit
163 discrimination against any person or group of persons on the grounds
164 of sexual orientation, in any manner prohibited by the laws of the
165 United States or of the state of Connecticut, and that employees are
166 treated when employed without regard to their sexual orientation;

167 (2) The contractor agrees to provide each labor union or
168 representative of workers with which such contractor has a collective
169 bargaining agreement or other contract or understanding and each
170 vendor with which such contractor has a contract or understanding, a
171 notice to be provided by the Commission on Human Rights and
172 Opportunities advising the labor union or workers' representative of
173 the contractor's commitments under this section, and to post copies of

174 the notice in conspicuous places available to employees and applicants
175 for employment;

176 (3) The contractor agrees to comply with each provision of this
177 section and with each regulation or relevant order issued by said
178 commission pursuant to section 46a-56; and

179 (4) The contractor agrees to provide the Commission on Human
180 Rights and Opportunities with such information requested by the
181 commission, and permit access to pertinent books, records and
182 accounts, concerning the employment practices and procedures of the
183 contractor which relate to the provisions of this section and section
184 46a-56.

185 (b) (1) Any contractor who has one or more contracts with the state
186 or a political subdivision of the state that is valued at less than fifty
187 thousand dollars for each year of the contract shall provide the state or
188 such political subdivision of the state with a written representation
189 that complies with the nondiscrimination agreement and warranty
190 under subdivision (1) of subsection (a) of this section.

191 (2) Any contractor who has one or more contracts with the state or a
192 political subdivision of the state that is valued at fifty thousand dollars
193 or more for any year of the contract shall provide the state or such
194 political subdivision of the state with any of the following:

195 (A) Documentation in the form of a company or corporate policy
196 adopted by resolution of the board of directors, shareholders,
197 managers, members or other governing body of such contractor that
198 complies with the nondiscrimination agreement and warranty under
199 subdivision (1) of subsection (a) of this section;

200 (B) Documentation in the form of a company or corporate policy
201 adopted by a prior resolution of the board of directors, shareholders,
202 managers, members or other governing body of such contractor if (i)
203 the prior resolution is certified by a duly authorized corporate officer
204 of such contractor to be in effect on the date the documentation is

205 submitted, and (ii) the head of the agency of the state or such political
206 subdivision, or a designee, certifies that the prior resolution complies
207 with the nondiscrimination agreement and warranty under
208 subdivision (1) of subsection (a) of this section; or

209 (C) Documentation in the form of an affidavit signed under penalty
210 of false statement by a chief executive officer, president, chairperson or
211 other corporate officer duly authorized to adopt company or corporate
212 policy that certifies that the company or corporate policy of the
213 contractor complies with the nondiscrimination agreement and
214 warranty under subdivision (1) of subsection (a) of this section and is
215 in effect on the date the affidavit is signed.

216 (3) Neither the state nor any political subdivision shall award a
217 contract to a contractor who has not provided the representation or
218 documentation required under subdivisions (1) and (2) of this
219 subsection, as applicable. After the initial submission of such
220 representation or documentation, the contractor shall not be required
221 to resubmit such representation or documentation unless there is a
222 change in the information contained in such representation or
223 documentation. If there is any change in the information contained in
224 the most recently filed representation or updated documentation, the
225 contractor shall submit an updated representation or documentation,
226 as applicable, either (A) not later than thirty days after the effective
227 date of such change, or (B) upon the execution of a new contract with
228 the state or a political subdivision of the state, whichever is earlier.
229 Such contractor shall also certify, in accordance with subparagraph (B)
230 or (C) of subdivision (2) of this subsection, to the state or political
231 subdivision, not later than fourteen days after the twelve-month
232 anniversary of the most recently filed representation, documentation
233 or updated representation or documentation, that the representation
234 on file with the state or political subdivision is current and accurate.

235 (4) For the purposes of this section, "contract" includes any
236 extension or modification of the contract, and "contractor" includes any
237 successors or assigns of the contractor. For the purposes of this section,

238 "contract" does not include a contract where each contractor is (A) a
239 political subdivision of the state, including, but not limited to, a
240 municipality, (B) a quasi-public agency, as defined in section 1-120, (C)
241 any other state, as defined in section 1-267, (D) the federal government,
242 (E) a foreign government, or (F) an agency of a subdivision, agency,
243 state or government described in subparagraph (A), (B), (C), (D) or (E)
244 of this subdivision.

245 (c) The contractor shall include the provisions of subsection (a) of
246 this section in every subcontract or purchase order entered into in
247 order to fulfill any obligation of a contract with the state and such
248 provisions shall be binding on a subcontractor, vendor or
249 manufacturer unless exempted by regulations or orders of the
250 commission. The contractor shall take such action with respect to any
251 such subcontract or purchase order as the commission may direct as a
252 means of enforcing such provisions including sanctions for
253 noncompliance in accordance with section 46a-56; provided, if such
254 contractor becomes involved in, or is threatened with, litigation with a
255 subcontractor or vendor as a result of such direction by the
256 commission, the contractor may request the state of Connecticut to
257 enter into any such litigation or negotiation prior thereto to protect the
258 interests of the state and the state may so enter.

259 (d) The Metropolitan District of Hartford County shall be deemed to
260 be a political subdivision of the state for purposes of this section.

261 Sec. 3. Subsection (a) of section 4a-60g of the 2014 supplement to the
262 general statutes is repealed and the following is substituted in lieu
263 thereof (*Effective July 1, 2014*):

264 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,
265 the following terms have the following meanings:

266 (1) "Small contractor" means any contractor, subcontractor,
267 manufacturer, service company or nonprofit corporation (A) that
268 maintains its principal place of business in the state, (B) that had gross

269 revenues not exceeding fifteen million dollars in the most recently
270 completed fiscal year prior to such application, and (C) that is
271 independent. "Small contractor" does not include any person who is
272 affiliated with another person if both persons considered together have
273 a gross revenue exceeding fifteen million dollars.

274 (2) "Independent" means the viability of the enterprise of the small
275 contractor does not depend upon another person, as determined by an
276 analysis of the small contractor's relationship with any other person in
277 regards to the provision of personnel, facilities, equipment, other
278 resources and financial support, including bonding.

279 (3) "State agency" means each state board, commission, department,
280 office, institution, council or other agency with the power to contract
281 for goods or services itself or through its head, and includes the
282 Metropolitan District of Hartford County.

283 (4) "Minority business enterprise" means any small contractor (A)
284 fifty-one per cent or more of the capital stock, if any, or assets of which
285 are owned by a person or persons who (i) exercise operational
286 authority over the daily affairs of the enterprise, (ii) have the power to
287 direct the management and policies and receive the beneficial interest
288 of the enterprise, (iii) possess managerial and technical competence
289 and experience directly related to the principal business activities of
290 the enterprise, and (iv) are members of a minority, as such term is
291 defined in subsection (a) of section 32-9n, or are individuals with a
292 disability, or (B) which is a nonprofit corporation in which fifty-one
293 per cent or more of the persons who (i) exercise operational authority
294 over the enterprise, (ii) possess managerial and technical competence
295 and experience directly related to the principal business activities of
296 the enterprise, (iii) have the power to direct the management and
297 policies of the enterprise, and (iv) are members of a minority, as
298 defined in this subsection, or are individuals with a disability.

299 (5) "Affiliated" means the relationship in which a person directly, or
300 indirectly through one or more intermediaries, controls, is controlled

301 by or is under common control with another person.

302 (6) "Control" means the power to direct or cause the direction of the
303 management and policies of any person, whether through the
304 ownership of voting securities, by contract or through any other direct
305 or indirect means. Control shall be presumed to exist if any person,
306 directly or indirectly, owns, controls, holds with the power to vote, or
307 holds proxies representing, twenty per cent or more of any voting
308 securities of another person.

309 (7) "Person" means any individual, corporation, limited liability
310 company, partnership, association, joint stock company, business trust,
311 unincorporated organization or other entity.

312 (8) "Individual with a disability" means an individual (A) having a
313 physical or mental impairment that substantially limits one or more of
314 the major life activities of the individual, which mental impairment
315 may include, but is not limited to, having one or more mental
316 disorders, as defined in the most recent edition of the American
317 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
318 Disorders", or (B) having a record of such an impairment.

319 (9) "Nonprofit corporation" means a nonprofit corporation
320 incorporated pursuant to chapter 602 or any predecessor statutes
321 thereto.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	4a-60
Sec. 2	<i>July 1, 2014</i>	4a-60a
Sec. 3	<i>July 1, 2014</i>	4a-60g(a)

JUD *Joint Favorable*